

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA, Plaintiff, vs. NEW SUDAN OMOT OKELLO, Defendant.	4:22-CR-40096-01-KES DEFENDANT OKELLO'S MOTION TO DISMISS
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COMES NOW Defendant New Sudan Omot Okello, by and through his counsel of record, Brett Waltner of Myers Billion, LLP, Sioux Falls, South Dakota, and respectfully moves the Court, pursuant to Federal Rule of Criminal Procedure 12(b)(3)(B), to dismiss the Indictment, which charges possession of a firearm while being an unlawful user of a controlled substance, in violation of 18 U.S.C. § 922(g)(3) and 924(a)(2), on the grounds that 18 U.S.C. § 922(g)(3) is unconstitutionally vague, in violation of the Due Process Clause of the Fifth Amendment to the United States Constitution, as well as violates Okello's rights under the Second Amendment to the United States Constitution. This *Motion* is supported by a Memorandum, filed contemporaneously herewith.

Dated this 30th day of June, 2023.

Respectfully submitted,

By:

/s/ Brett Waltner

Brett Waltner

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing *Motion to Dismiss* was served upon Assistant U.S. Attorney, Paige Petersen, counsel for Plaintiff, via electronic mail, at paige.petersen@usdoj.gov.

On this 30th day of June, 2023.

/s/ Brett Waltner

Brett Waltner